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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Report on the human rights situation in Equatorial Guinea submitted by the Expert of the Commission on Human Rights, Mr. Fernando Volio, pursuant to Commission resolution 1992/79

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Note verbale dated 12 November 1992 from the Permanent Mission of Equatorial Guinea addressed to the United Nations Office at Geneva 16

GE.93-10024 (E)

Introduction

1. The Commission on Human Rights has concerned itself publicly with the question of Equatorial Guinea since 1979 On 8 March 1979, at its thirty-fifth session, the Commission adopted a confidential decision whereby it discontinued consideration of the human rights situation in Equatorial Guinea under Economic and Social Council resolution 1503 (XLVIII) - the confidential procedure - and took up consideration of the question under the public procedure provided for by Commission resolution 8 (XXIII) and Council resolution 1235 (XLII). Subsequently, on 13 March 1979, the Commission adopted resolution 15 (XXXV), by which it decided to entrust to a special rapporteur of the Commission, to be appointed by its Chairman, the task of making a thorough study of the human rights situation in Equatorial Guinea. The Economic and Social Council, for its part, approved the Commission's decisions by its own decision 1979/35 of 10 May 1979, adding that the material before the Commission on the question should no longer be restricted under Council resolution 1503 (XLVIII).

2. The Chairman of the Commission appointed as Special Rapporteur Mr. Fernando Volio (Costa Rica), who submitted his first report on the human rights situation in Equatorial Guinea to the Commission at its thirty-sixth session (E/CN.4/1371 and Corr.1). In the light of that report, the Commission adopted resolution 33 (XXXVI) of 11 March 1980, whereby it decided to request the Secretary-General to appoint, as an expert in his individual capacity, a person with wide experience of the situation in Equatorial Guinea, in particular with a view to assisting the Government of that country in taking the action necessary for the full restoration of human rights and fundamental freedoms, keeping in mind the recommendations of the Special Rapporteur and the economic, political and social realities of the country. The Commission's resolution was approved by the Economic and Social Council on 2 May 1980 (decision 1980/137). The Secretary-General appointed Mr. Fernando Volio as the Expert in his individual capacity to carry out the above task. Mr. Volio accepted the appointment on 19 September 1980, and the Government of Equatorial Guinea indicated its concurrence on 1 October 1980.

3. Since then, the Expert has reported annually to the Commission on Human Rights on the mishaps befalling the Plan of Action for the restoration of human rights and fundamental freedoms which he himself prepared, and which was proposed by the United Nations and accepted by the Government of Equatorial Guinea.

4. At its forty-seventh session, the Commission had before it the report of the Expert contained in documents E/CN.4/1991/54 and Add.1 and 2, describing the advisory services made available to Equatorial Guinea by the United Nations during 1990 and the Expert's concern over what he called stagnation in the implementation of the Plan he had proposed, along with his view that the Commission's current strategy for considering the human rights situation in Equatorial Guinea should be rethought. To that end, he suggested that his mandate should be "broadened and strengthened so that, in investigating the human rights situation in that country, he can consider allegations of possible human rights violations and conduct inquiries on the spot".

5. At its forty-eighth session, the Commission had before it the report of the Expert contained in document E/CN.4/1992/51 describing the Expert's mission to Equatorial Guinea in November 1991, and his view that the human rights situation in that country had seriously deteriorated. In that connection, he stated that the human rights situation in Equatorial Guinea should be of serious concern to the international community and that the Commission on Human Rights must decide how best to ensure that the situation of human rights in Equatorial Guinea continues to be studied as a matter of high priority (E/CN.4/1992/51, paras. 93 and 152).

6. In the light of the Expert's report, the Commission decided, inter alia, to request its Chairman, following consultations with the Bureau, "to appoint an individual of recognized international standing in the field of human rights who is entirely familiar with the situation in Equatorial Guinea, as an Expert of the Commission whose mandate is to make a thorough study of the violations of human rights by the Government of Equatorial Guinea" (resolution 1992/79, para. 12). Subsequently, by decision 1992/247 of 20 July 1992, the Economic and Social Council approved the Commission's resolution.

7. By letter dated 10 April 1992, the Chairman of the Commission on Human Rights appointed Mr. Fernando Volio as the Expert. In fulfilment of the above mandate, the Expert visited Geneva from 22-26 September 1992 for consultations at the Centre for Human Rights on questions pertaining to his mandate. During his visit, the Expert met with the Permanent Representative of Equatorial Guinea to the United Nations Office at Geneva, Mr. Marcelo Engonga Motulu, together with the Vice-Minister of Justice in Charge of Human Rights, Francisco Javier Ngomo Mbengono. He also met with representatives of the Governments of Spain and the United States of America as well as representatives of Amnesty International, the International Commission of Jurists, the Committee on the Return of Exiles from Equatorial Guinea, the National Alliance for Democratic Restoration in Equatorial Guinea and the International Movement for Fraternal Union Among Races and Peoples.

8. The present report covers the most relevant events in Equatorial Guinea during 1992, ending for technical reasons on 15 December 1992.

I. COMMUNICATIONS BETWEEN THE GOVERNMENT OF EQUATORIAL GUINEA AND THE EXPERT

9. On 9 September 1992, the Expert addressed the following letter to His Excellency the President of Equatorial Guinea, Mr. Teodoro Obiang Nguema Mbasogo:

"Sir,

I have the honour to address you in my capacity as Expert of the Commission on Human Rights for Equatorial Guinea. As you are aware, by resolution 1992/79, the Commission extended my mandate and I would therefore like to take this opportunity to raise the following matter.

According to information received, Mr. Severo Moto, who leads the Partido del Progreso, has been in Malabo since 2 May 1992 and has been prevented from carrying out his party activities. I have also been informed that Mr. Severo Moto was allegedly detained on 1 and 4 of this month and that on 1 September he was questioned for seven hours.

Twenty-four members of his party were also reportedly arrested between 1 and 3 September and are still in detention. Seven of them are said to be held at a place known as 'Black Beach' and the others at the Directorate of National Security. Furthermore, the headquarters of the Partido del Progreso were allegedly vandalized and its files confiscated.

Accordingly, I should be grateful if you would inform me of the situation of Mr. Moto and the members of his party.

I trust that his physical safety will be guaranteed and protected by your Government and ask you to accept, Sir, the assurances of my highest consideration."

10. In reply, on 22 September 1992, the Vice-Minister of Justice and Human Rights, Mr. Francisco Javier Ngomo Mbengono, handed to the Expert in Geneva the following letter dated 11 September 1992 from the Minister of Foreign Relations and Francofonía of Equatorial Guinea, Mr. Agustín Nso Nfumu:

"Sir,

I have the honour to acknowledge receipt of your letter dated 9 September 1992 to His Excellency the President of the Republic concerning the incidents that recently involved Mr. Severo Moto Nsá and a number of police officers.

In this connection, it is my duty, in keeping with the importance attached to the matter by my Government, to provide information and clarification, regarding current political developments in Equatorial Guinea.

I should like to point out that we have always been ready to provide you with information, in your capacity as Expert of the Commission on Human Rights responsible for following political developments in Equatorial Guinea, although we sincerely regret that for some incomprehensible reason the information has been dealt with partially and subjectively, as the results of your work on this question have so far not reflected the socio-political and legal situation in Equatorial Guinea.

However, as further proof of our Government's desire to demonstrate its transparency in respect of the subject at issue, we have taken the liberty of providing you with succinct information on this matter, as requested in your letter, which was once again based on half-truths, distorted for obvious reasons by whoever provided you with the information.

It has to be clearly understood that all civilized societies are governed by rules and laws regulating relations between their members; these laws are laid down by those responsible for exercising authority, for the benefit of the community, a principle that applies to all members of the society concerned.

This principle, Sir, is a cornerstone in safeguarding human rights.

We trust that you are aware of the legal measures recently adopted by the authorities in regard to freedoms, and specifically, the Political Parties Act, with which all those who wish to establish political parties in Equatorial Guinea are required to comply. We also take it you are aware that, pursuant to this Act, four political parties are already freely and legally operating in Equatorial Guinea and are engaged in open dialogue with the Government.

Nevertheless, Mr. Severo Moto Nsá, who purports to be the leader of the Partido del Progreso, has not only adopted an arrogant and wholly contemptuous attitude towards the country's laws, making no effort to legalize his political party, but has also engaged in all the activities that lawful political parties are allowed to undertake; he has even established a form of paramilitary organization made up of students, delinquents and former soldiers who provoke society and the authorities, to the detriment of peace and public order.

In the circumstances, despite the unlawful nature of his activities and the disruptive character of the paramilitary group he has set up, the Government has remained obliging and tolerant towards this individual and his activities, at the risk of being accused of discrimination by those parties which have complied with all the requirements to obtain legal recognition ... This, Sir, is also part of human rights: equality before the law.

This very same paramilitary group was responsible for the incident on 1 September, when it caused a public disturbance in the vicinity of its offices, an incident in which a number of people were very badly treated and efforts were made to stop them using the street on which the offices are located.

A second incident occurred following an argument between someone who wanted to buy a copy of the newspaper Progreso, published by the party in question (which it freely sells and distributes in spite of the party's anomalous situation, referred to above), when the seller refused to return the person's change; this led to an argument in which the buyer was hurt and a crowd gathered. As is usual in matters of public order, the police went to the scene to restore peace, although they too were assaulted by members of the paramilitary organization in question. It was only after this further assault against the police that some of those responsible were taken to the Directorate of Security.

As for Mr. Moto Nsá, we regret the lack of objectivity on the part of the source which provided the information, as this person was neither ill-treated nor subjected to any form of violence. However, as he is

responsible for the group involved in the disturbances, he was summoned in order to explain the situation, after which he resumed his normal activities. Mr. Severo Moto Nsá was never detained and in our view you misrepresent the situation when you state in your letter that you "trust that his physical safety will be guaranteed and protected by your Government" and allege that the party's offices were "vandalized and its files confiscated".

Lastly, Sir, we have taken this opportunity, yet again, to report the actual facts as they occurred, although we do so in the belief that our version will, as always be given little credit by you, even though you have not taken the trouble to verify the facts.

We are none the less confident that in due course developments in our country will be judged justly and impartially in the way they deserve, in order to assist the Government and people in moving forward, firmly and successfully, towards respect for human rights, for which our Government will nevertheless continue, as in the past, to direct every possible effort.

The Vice-Minister of Justice and Worship, who is travelling to Geneva to attend the Preparatory Committee for the World Conference on Human Rights will be honoured to assist you in clarifying the matters of concern to you in connection with this and other issues.

I trust that you will receive this letter safely and take this opportunity to express my hopes of objective and effective cooperation between you and the Government of Equatorial Guinea in the future.

Accept, Sir, the assurances of my highest consideration.

11. On 14 September 1992, the Expert addressed the following three letters to the Minister of Foreign Affairs and Francofonía of Equatorial Guinea, Mr. Augustín Nse Nfumu:

(1) "Sir,

Yesterday, His Excellency Mr. Francisco Javier Ngomo Mbengono, Vice-Minister of Justice and Worship transmitted to me your note dated 11 September 1992 in answer to my note of 9 September 1992 concerning Mr. Severo Moto Nsá.

I should like to thank you for your reply, which seems to herald a flexible system of communication between the Government of Equatorial Guinea and one who has been active for over 30 years in a voluntary capacity in the struggle to protect human rights.

I take note of your version of the circumstances that gave rise to my letter of 9 September, and thank you for the information.

I should like to take this opportunity to inform you that, for 13 years in succession, in compliance with my mandates relating to Equatorial Guinea I have been striving to cooperate with your Government

in order to safeguard the fundamental rights of the noble people of Equatorial Guinea. This arduous task has been made easier for me by the signs of understanding and support from the authorities and various public figures from various private organizations, above all during my four visits to the country.

Accordingly, it is my belief that your adverse remarks about my activities are not only an exception to your Government's behaviour, but also an unfounded and unfair assessment of my work.

However, I take satisfaction in your encouraging remarks about effective future cooperation between you and me for the good of the people of Equatorial Guinea.

Accept, Sir, the assurance of my highest consideration."

(2) "Sir,

Professor Lukas Visher, Chairman of the Committee on the Return of Exiles from Equatorial Guinea paid me a visit yesterday, 23 September, to inform me of the Committee's activities.

I am extremely gratified that the talks between your Government and the Committee have led to a satisfactory understanding that will allow some 28 exiled families to return shortly to their country, as will others who are to follow the first group.

As you are aware, the return of the exiles to Equatorial Guinea is one of my most pressing concerns, as I have indicated in my reports, and especially in the two most recent ones.

Accordingly, I am writing to express my support for the agreement so far reached with the Committee headed by Professor Visher and am confident that it will ensure that Equatorial Guinea is again able to rely on the participation of worthy citizens in improving society as a whole and the human rights situation.

I suggested to Professor Visher that he should focus special attention on the details of the implementation of the agreed Plan, in order to avoid any recurrence of the misunderstandings that arose in 1991 between the officials responsible for border posts and the returnees. Such misunderstandings would jeopardize this praiseworthy and indispensable effort.

I should also like to take this opportunity to express to you my own willingness to cooperate in this Plan.

Accept, Sir, the assurances of my highest consideration."

(3) "Sir,

As I have not so far received any note from the Government of Equatorial Guinea with an official response to my report (E/CN.4/1992/51), dated 17 January 1992, and as I am required to prepare a further report for the session of the Commission on Human Rights in February 1993, I would like through this note respectfully to request you to inform me of your Government's reaction to the report in question.

I should be particularly interested to know whether the Government is prepared to approve and put into effect the "Emergency Plan of Action" suggested in paragraph 125 of my report (p. 38), as well as the "Special Legislative Commission" and the "Follow-up Committee" referred to in the recommendations contained in paragraphs 127 and 128 respectively of the report (E/CN.4/1992/51).

In addition, I should like to discover your Government's views about the question of religious freedom in connection with Act No. 4/1991 of 4 June 1991. Has the Government proceeded to amend the Act in order to eliminate the clauses which restrict religious freedom, as mentioned in paragraphs 97 and 98 of the report (E/CN.4/1992/51, pp. 33-34)?

Furthermore, I would be interested to know whether there have been any positive changes in respect of freedom of opinion and expression, which is also a fundamental right, and which is referred to in paragraph 137 of my report.

The matters referred to in this letter do not preclude those addressed in the "Conclusions" and "Recommendations" of the report (pp. 33-38). They are all important in determining whether there have been improvements in the human rights situation in Equatorial Guinea.

I have every confidence that you will provide me with the information requested, for which I thank you; it will be extremely valuable for the preparation of a new report, in the discharge of my mandate.

Accept, Sir, the assurances of my highest consideration."

II. INFORMATION RECEIVED BY THE EXPERT

12. According to information received by the Expert, serious human rights violations continue to take place in Equatorial Guinea, in particular the harassment and repression of members of the political opposition. Arbitrary arrest, often to extort money or for revenge, and the torture and ill-treatment of detainees continue to be reported. Charges of "kong", or witchcraft, are said to be used as a pretext to detain members of the opposition. Detainees are often held in incommunicado detention in conditions that violate United Nations standards for the treatment of detainees. The right to habeas corpus is not respected and appeals are reportedly non-existent. A climate of fear and intimidation is said to continue to prevail in Equatorial Guinea.

13. According to reliable information received by the Expert, a member of the Presidential Security Guard, Norberto Ndong Abia, was sentenced to death by a Military Court in Bata on 23 or 24 November 1992. He was reportedly convicted of shooting dead Pedro Ateba during an argument on 26 October 1992. It is said that Pedro Ateba's death is the second arbitrary killing by security personnel reported within a one month period. Allegedly, on 22 November 1992, Silverio Mba Okenve was also shot dead by a member of the Presidential Security Guard. In Equatorial Guinea both ordinary and military courts are reportedly empowered to impose death sentences. However, people sentenced to death by a Military Court allegedly have no opportunity to appeal.

14. It may be recalled that in January 1992, a law allowing political parties was passed in Equatorial Guinea. Until then, the only party allowed was the ruling Partido Democrático de Guinea Ecuatorial (PDGE). Following the introduction of the multi-party political system, the Partido del Progreso de Guinea Ecuatorial (Equatorial Guinea Progress Party), founded by Equatorial Guinean exiles in Spain, reportedly began to operate openly. In a note verbale dated 12 November 1992, the Government of Equatorial Guinea informed the Expert that on 17 October 1992 six political parties were legalized; together with the ruling party, there are said to be seven legal political parties now in the country (see annex). Opposition parties, however, are reported to have no access to radio or television. There is no written press in Equatorial Guinea.

15. According to information received by the Expert, despite the introduction of a multi-party political system, throughout 1992 numerous persons have continued to be detained for having supported opposition parties. It has been reported that between 1 and 3 September 1992, 24 (according to another source 29) members of the Partido del Progreso (PP) were arrested in Malabo, including the leader of the party, Severo Moto Nsá, who is said to have been released subsequently. Reportedly, eight of the persons concerned (names given) arrested on 1 September 1992 were taken to Black Beach prison; 16 others arrested between 1 and 3 September 1992 are said to be held at the Dirección Nacional de Seguridad (Directorate of National Security). Reportedly, all those detained were subjected to torture (details given) and some are said to have sustained serious injuries, and to have been denied medical attention. Among those arrested, one of the persons is said to be a minor and the youngest brother of the leader of the party, Severo Moto Nsá. It is said that most of the persons concerned are believed to have appeared before a judge but charges, if any, reportedly have not been made public. According to reliable information received by the Expert, the arrests allegedly followed an incident on 1 September 1992 when a man believed to have links with the security forces entered the party's office purportedly to buy the party's newspaper. He is said to have begun screaming, and some 20 policemen reportedly then arrived and beat and arrested all those present except the man. The police are said to have ransacked the office and to have taken away files containing the names and other details of members of the Partido de Progreso. Nine persons detained on 1 September 1992 are said to have been released from Black Beach Prison or the national Police Headquarters upon the payment of fines reportedly ranging from between US$ 100 to 140 by the PP and/or relatives. Following this incident, seven persons are said to have been detained when their names were found in the archives of the PP, reportedly confiscated by the authorities. As of 22 September 1992, 19 of the

persons concerned are said to remain in detention. The letter dated 9 September 1992 from the Expert to the President of Equatorial Guinea on this matter and the Government's reply are contained in paragraphs 9 and 10 above.

16. Following the opening of a provincial office by the Popular Union Party in early July, a party reportedly provisionally recognized by the Government in early June, a meeting is said to have been held by party members in the district capital of Mikomeseng. According to information received by the Expert, the Government claimed that it was an unauthorized meeting and officials detained 42 or 43 participants. The majority of these persons are said to have been taken to Bata and detained without charge until August, when they were allegedly released. It has been further reported that on 25 October 1992, 15 members of the party were again arrested in Mikomeseng. On 12 November 1992, José Martínez Bikie, a leader of the party, is said to have been sentenced to six months in prison for "insulting the Chief of State", and fined 200.000 Cfa francs (approximately US$ 800). He was reportedly arrested in early June 1992, together with two colleagues, Anastasio Nsolo and Marcelino Asumu, following a meeting in Nsole Nsomo; the three are said to have been accused of "offences against the Chief of State, the Government and other institutions". M. Asumu and A. Nsolo were reportedly declared innocent by the court in Bata on 26 October 1992.

17. In July 1992, security forces are said to have detained four members of the Liberal Democratic Convention, a party also reportedly provisionally recognized by the authorities in June 1992; the persons concerned are said to have been arrested in Mbini and held for over one month without charge at the prison in Bata before being released in late July 1992.

18. In another incident brought to the attention of the Expert, it is reported that on 10 June 1992, Pilar Mañana was arrested by two plain-clothes police officers in the bar she owns, allegedly for being in possession of an issue of La Verdad, the paper of the opposition party Convergencia para la Democracia Social (CPDS) (Convergence for Social Democracy). It is said that the paper had been left behind by another customer. Reportedly, P. Mañana is the aunt of a former political prisoner and she is said to be known to be a government opponent, although she is reportedly not a member of any political party. She is alleged to have been held for several days without charge and then released.

19. In April 1992 three men, Eusebio Ela, Juan Esono and Tomás Eyama, said to be identified with the Social Liberal Democratic Christian Party, are alleged to have been arrested for having removed wiring and other fixtures from a government house from which the party's president, Juan Manene, had reportedly been evicted. J. Manene is said to have claimed that what was being taken had been installed by him and it was hence his right to remove it. The persons concerned are reported to have been sent to Black Beach Prison and to have been tried, convicted and sentenced for an unknown period of time. As of 22 September 1992, they were said to be in detention in Black Beach Prison, with the possibility of release upon payment of a fine equivalent to approximately US$ 200. J. Manen is said to have fled the country and to be in exile abroad.

20. On 24 March 1992, police are said to have detained Martín Edjang Mboro, allegedly for having complained about politics to a friend. He is said to have been accused of being anti-Government and a follower of Severo Moto Nsá, and to have been arrested and held without charge in Black Beach Prison until early June 1992.

21. In a conversation on 22 September 1992 in Geneva with the Vice-Minister of Justice in Charge of Human Rights, the Expert was told that there were no political prisoners detained in Equatorial Guinea.

22. The Expert would note that, although the Government of Equatorial Guinea ratified the International Covenant on Civil and Political Rights on 25 September 1987, it has not complied with its responsibilities under the Covenant and has failed to submit even one report, despite having received seven reminders from the Secretariat dated between 10 May 1989 and 25 May 1992.

III. CONCLUSIONS

23. There has been no change in the human rights situation in Equatorial Guinea. The political and institutional conditions that seriously hinder both the free exercise and due legal protection of fundamental rights persist. Power remains concentrated in the hands of the President of the Republic, whose responsibilities are combined, both de facto and de jure, with the basic functions of public policy, which clearly contradicts the doctrine and practice of constitutionalism, and directly harms the fundamental rights of all individuals.

24. The President of the Republic thus possesses absolute power, which he wields to serve the political interests of his regime and to the detriment of the freedoms of citizens.

25. This situation does not alter, even in the case of what are described as "changes of Government", i.e. when a new Prime Minister and other new ministers are appointed, for such changes occur solely at the wish of the President of the Republic and are in no way prejudicial to his personal authority.

26. The recently adopted Constitution was drawn up in an attempt to legitimize this state of affairs. Indeed, the Constitution expressly places the President of the Republic beyond the reach of any possible legal proceedings to call him to account for misuse of power.

27. The situation is made worse by the fact that the Government of Equatorial Guinea has shown no sign of the necessary readiness to make sincere changes in its present repressive policy, and it seems more concerned with creating the impression that the country is undergoing extensive and genuine political liberalization, already apparent, according to the Government, in the observance of fundamental rights and freedoms. However, this view is at variance with actual developments in Equatorial Guinea and only serves to postpone indefinitely the political decisions that must be taken to establish a proper system of protection for human rights.

28. By acting in this way, the Government is sidestepping the actual problems that beset Equatorial Guinea in the human rights sphere, and also hindering every effort by its citizens and any cooperation by the international community to solve them.

29. The situation in Equatorial Guinea is such that there is an ever widening gap between the improvements, according to the Government, that have occurred, in the field of human rights protection, and the harsh reality experienced by the people as a result of severe, institutionalized official repression.

30. The Government of Equatorial Guinea has not indicated whether it approves of the "Emergency Plan of Action" proposed by the Expert, which would make it possible to carry out the principal reforms in the country's institutional structure, in order to afford proper protection of the fundamental rights of the people of Equatorial Guinea. The Plan is part of the Recommendations made by the Expert in his report (E/CN.4/1992/51), dated 17 January 1992. Nor has the Government referred to other recommendations relating to the Plan, which need to be implemented in order to make the Plan effective.

31. The Government of Equatorial Guinea has given an incomplete and unsatisfactory reply to the letter sent by the Expert on 24 September 1992 (see para. 11 above), in which the Expert requested it to inform him of its response to the above-mentioned report. In its note dated 7 December 1992 concerning religious freedom, the Government merely reproduces, out of context, a number of articles of Act No. 4/1991, but fails to refer to the Expert's criticism of that Act in his report (E/CN.4/1992/51). It is clear from an examination of the articles of the Act, which are reproduced by the Government, that religion and worship are subject to strict and undesirable control by the State. Accordingly, the Expert reiterates what he said in his previous report, on the basis of an analysis of the Act as a whole and of the testimony of representatives of various churches, including the Catholic Church: in Equatorial Guinea "freedom of religion and worship have been severely restricted."

32. As to freedom of opinion and expression, the Government's reply to the Expert's letter contains no information to change the Expert's criticism of the prevailing human rights situation in Equatorial Guinea. Citing the Constitution of Equatorial Guinea as proof that, according to the Government, freedom of opinion and expression are respected in Equatorial Guinea, signifies that the Government is resolved to avoid facing what is really happening in the country, over and above the expressions of mere legal formalism. Naturally, this attitude runs counter to the interests of the fundamental human rights of the citizens and all the inhabitants of Equatorial Guinea.

33. Although the information provided by the Government of Equatorial Guinea about the pardon granted to persons convicted of ordinary offences under the Decree of 2 June 1992 is incomplete, the Expert believes that this decision is partly in conformity with the recommendation made in his report (E/CN.4/1992/51).

34. It is a source of encouragement to the Expert to note that, according to the information provided by the Government of Equatorial Guinea, "the Constitutional Act to regulate the remedies of amparo and unconstitutionality is currently being examined". According to the Government, this study envisages the establishment of a Constitutional Court to examine, inter alia, applications for amparo and actions of unconstitutionality. However, it is the Expert's view that, if this decision by the Government is to have the desired positive effects, it is essential for the study to be completed and approved as part of a coherent structured plan, for systematic implementation, to establish the political and legal institutions that are indispensable in protecting the fundamental rights of all individuals. One such institution, of fundamental importance, would be an independent and efficient judiciary. However, as the Expert has already observed on other occasions, and as he repeats at this juncture, in Equatorial Guinea the judiciary is subject to the authority and will of the President of the Republic, with the further difficulty that the organization and the functioning of the courts are undermined by the lack of professional skill of their personnel as well as by the lack of financial and technical resources.

35. The "Emergency Plan of Action" proposed by the Expert in his previous report (E/CN.4/1992/51) is designed to provide a solution to the serious problems referred to above. However, the Government needs to adopt it officially, something it has not yet done, and to implement it as part of a far-reaching reform of the present political system in Equatorial Guinea, which seriously jeopardizes effective observance of human rights.

36. From the information supplied to the Expert by the Government of Equatorial Guinea it is clear that progress has been made with regard to the operation of political parties. The Expert has none the less received information from other sources pointing to the fact that they operate in precarious circumstances far from comparable to the situation of political parties in democratic countries. This information is included in this report, together with that provided by the Government.

37. The Government has not informed the Expert whether any progress has been made in regard to exiles, on the basis of the initiative taken by the Committee on the Return of Exiles from Equatorial Guinea, to which the Expert gave his support, as is evidenced by another letter sent to the Government of Equatorial Guinea, also dated 24 September 1992 (para. 11 above).

38. In both cases the Government's refusal to address matters of such importance is a telling revelation of its failure to cooperate with the Expert in the discharge of his mandate. Still more important is the fact that the Government's attitude jeopardizes the cause of human rights in Equatorial Guinea, as it cuts the country off from the cooperation and monitoring activities carried out by various United Nations specialized organs.

39. As long as the Government fails to change its attitude and insists on ignoring reality, there will be no possibility of improving the grave human rights situation in Equatorial Guinea, which is essentially attributable to

the existence of an undemocratic and repressive political regime. If the nature of the regime were to change, the present conditions in the country, which are detrimental to effective respect for fundamental freedoms and could lead over the short term to another national tragedy like the one which brought about the Francisco Macías dictatorship, would also change.

IV. RECOMMENDATIONS

40. The urgent changes required in the human rights situation in Equatorial Guinea will not be brought about by mere declarations of intent and promises. As the proverb says, "There's many a slip 'twixt cup and lip" or in the words of another, "Actions speak louder than words". Accordingly, the Government must fully cooperate with the Expert in the discharge of his mandate and prepare to implement the "Emergency Plan of Action" proposed by him, with such adjustments as are necessary to improve and apply it properly.

41. The Plan responds to the actual needs and characteristics of Equatorial Guinea, as did the first plan, in 1981, which was also recommended by the Expert and approved by the Government of Equatorial Guinea. At this juncture the new Plan is even more urgent than in the 1980s, for at that time there was an extremely positive trend towards building a democratic regime in place of the cruel dictatorship of Francisco Macías, overthrown in 1979. Nowadays, in contrast, the prevailing mood is one of deep disenchantment and a well-founded fear that a whole decade has been wasted and that the country stands on the threshold of another period of tyranny as disastrous as the previous one.

42. If the Government of Equatorial Guinea fails to take this opportunity to approve the "Emergency Plan of Action" proposed by the Expert in his report of 17 January 1992 - a failure which would be extremely unfortunate for the cause of human rights - it is in any case essential for it to shoulder its responsibility in this respect and promptly adopt the requisite measures to ensure observance of the fundamental rights set out in the Universal Declaration and the International Covenant on Civil and Political Rights, as well as in other similar declarations, covenants, agreements and conventions.

43. In any event, in this further report the Expert reiterates the recommendations contained in the report already mentioned (E/CN.4/1992/51), since they were not taken up by the Government of Equatorial Guinea and the situation that gave rise to them still obtains.

44. The Expert above all wishes to emphasize that what Equatorial Guinea now needs is a change in the nature of the country's political regime so as to allow a representative democracy to emerge, one that accurately reflects the country's specificity and complies with the universal human rights principles and norms. The majority of the people of Equatorial Guinea are clamouring for this vital change and it lies with the Government to foster such a change and turn it into reality.

45. In any event, the Expert reiterates his recommendation that the fundamental liberties of religion, opinion and expression, movement, habeas corpus, appeal, due process of law and physical integrity, as well as the right to political participation, are respected.

46. With regard to the institutional framework of the United Nations and the role incumbent upon the international organizations and the community of nations as a whole in this regard, the Expert considers it his duty also to repeat his previous recommendations that the organizations in question should maintain their support for the efforts made by the people of Equatorial Guinea, under extremely trying circumstances, to reform the existing human rights situation in their country.

ANNEX

Note verbale dated 12 November 1992 from the
Permanent Mission of Equatorial Guinea
addressed to the United Nations Office
at Geneva

The Permanent Mission of the Republic of Equatorial Guinea to the United Nations Office and International Organizations in Geneva presents its compliments to the United Nations Centre for Human Rights and has the honour to enclose an official list of all the political parties legally recognized in Equatorial Guinea. If the Partido Democrático de Guinea Ecuatorial (PDGE), currently in power, is included, there are in all seven legally recognized political parties in Equatorial Guinea.

The list also includes the names of the principal national officials.

LIST OF THE NAMES OF THE MEMBERS OF RECENTLY AUTHORIZED POLITICAL PARTIES

Number	Name of Party	Name and surname of officials
1.	Unión Popular (UO)	Juan-Ntué NSIE MASACUM, Miguel EDJANG NVONO, Pedro TOME SALAS, Francisco-Nse NDONG AFANG and Cornelio RONDO IGAMBO.
2.	Convención Liberal Demócrata (CLD)	Alfonso NSUE MOKUY, Santos-Pascual BICOMO NANGU, Silvestre BENINGO B. BSTOSI, Antonio-Santos MUATETEMA, Gregorio MERINO CASTAÑO, Antonio-Nculu ASUMU ANGUE and Estanislao DON MALAVO.
3.	Partido Social Demócrata (PSD)	Donato-Campos PAU ERIBO, Eduardo CHANKE MAY, Gaspar-Santos UPOLO IDJABUA, Benjamín-G. BALLINGA BALING, Pedro-Bayeme AYINGONO Francisco MABALE NSENG and Gregorio ASUMU MBOGO.
4.	Alianza Demócratica Progresista (ADP)	Jesús MBA NSOGO, Robustiano ECHUBE PINOSA, Ignacio-Molongua AKIEME N., Jacinto SILICOPA CHALE and Vicente KUKU MOCHE.
5.	Unión Demócrata Social (UDS)	Jesús NZE OBAMA, Teodoro MITOGO MBA MANGUE, Silvestre NZAMIO NGUERE B., Musa Alí ASUMU NGUEMA, Francisco MICHA OBAMA, Teodosia NCHAMA ONDO OKOMO, Sebastian BIQUE BOBORI, Teofilo MUM MEJIA, Jaime MANDOGO OKOMO and Faustino ONDO EBANG.
6.	Partido del Progreso (PP)	Severo M. MOTO NSA, Tomás BUEICHEKU BONEKE and Pablo NDONG ENSEMA.